

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANDRES GARCIA,

Plaintiff,

v.

CIV. NO. 08-279 MV/WDS

GARY TAFOYA, et al.,

Defendants.

PLAINTIFF'S UNOPPOSED MOTION TO AMEND COMPLAINT

Plaintiff Andres Garcia by and through his attorneys Kirtan Khalsa and Mark Fine, hereby moves the Court to permit him to amend his complaint to add Jacquie Monclova and Alex Bolden as Defendants, to remove Patricia DiVasto as a Defendant and to remove Defendant Hyatt from Count II alleging an unlawful search. In support of this unopposed motion Plaintiff states:

1. Plaintiff filed his Complaint on March 16, 2008.
2. Through recent motions practice, Plaintiff has learned that he mistook Jacquie Monclova for Patricia Divasto, both of whom are assistant principals at Rio Rancho High School. Thus, Plaintiff seeks to amend the complaint to correct the mistake and substitute Jacquie Monclova for Patricia Divasto. Plaintiff also seeks to clarify Count I to add Jacquie Monclova to that Count.
3. Through discovery Plaintiff has learned the name of John Doe 5, the individual who he claims illegally strip searched him when he was booked into the detention center. This individual is Alex Bolden, and Plaintiff seeks to amend the complaint to name Mr. Bolden and add an express section 1983 claim against him arising from the illegal strip

search. Plaintiff has also been provided in discovery with a Bernalillo County policy requiring strip searches of all juvenile inmates upon booking at the juvenile detention center. Pursuant to this evidence Plaintiff also seeks to add a section 1983 claim against the Board of County Commissioners of Bernalillo County.

4. Finally, Plaintiff seeks to drop Defendant Hyatt from Count II alleging illegal search.
5. Leave to amend a complaint should be freely given when justice so requires, and there is no just reason why Plaintiff should not be allowed to amend his complaint.
6. Counsel for all Defendants have been consulted and none oppose this motion.
7. Plaintiff's proposed amended complaint is attached hereto.

WHEREFORE, Plaintiff prays the Court to allow him to amend his complaint.

Respectfully Submitted,

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/s/ Kirtan Khalsa
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I hereby certify that a copy of the foregoing Motion was delivered via the Court's CMECF system to all counsel of record on this the 24th day of February, 2009.

/s/ Kirtan Khalsa
Kirtan Khalsa